

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE COMPLAINT,

-of-

CHERYL A. PIZAPPI,
as Owner of M/V RAGAZZA GO-VELOCE,
a 1999, 33-foot Wellcraft Scarab for
Exoneration from or Limitation of Liability

Petitioner.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/18/2022

7:22-CV-8771 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

A Complaint having been filed herein on October 14, 2022, by the above-named Petitioner, Cheryl A. Pizappi, as owner of M/V RAGAZZA GO-VELOCE, a 1999, 33-foot Wellcraft Scarab, pursuant to 46 U.S.C. §§ 30501 et seq., involving admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, concerning any claims for loss, damage, and/or injury, arising or resulting in connection with an incident which occurred on July 4, 2021, while Petitioner's Vessel was upon the navigable waters of the United States, as more fully described in the Complaint;

AND the Complaint having stated that Petitioner's interest in the value of the Vessel on the day of the incident did not exceed the sum of \$45,000;

AND Petitioner having filed with the Court an Ad Interim Stipulation for Value for the benefit of any and all claimants, with surety, equal to the amount of Petitioner's interest in the value of the Vessel as of the date of the incident, with interest at the rate of 6% per annum from

the date of said security, executed by marine insurer ACE American Insurance Company, 436 Walnut Street, P.O. Box 1000, Philadelphia, PA 19106.

NOW, on motion of attorneys for Petitioner, it is hereby:

ORDERED that the above-described Ad Interim Stipulation for Value, with interest as aforesaid, filed by Petitioner for the benefit of any and all claimants as security representing the Petitioner's interest in the value of the Vessel as of the date of the incident, be and is hereby approved; and

IT IS FURTHER ORDERED that the Court, only upon motion and good cause shown, shall cause appraisalment of the value of Petitioner's interest in the Vessel on the date of the incident, and may thereupon order said security increased or reduced if it finds the amount thereof insufficient or excessive; and

IT IS FURTHER ORDERED that any claimant in these proceedings may express, only upon motion and good cause shown and by written notice filed with the Court and served upon all parties of record, its dissatisfaction with ACE American Insurance Company as surety. In this event, Petitioner shall within thirty (30) days of the entry of an order by the Court concerning the surety, cause security to be posted in the form provided by Supplemental Rule F(1) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, and satisfactory to this Court failing which the injunction entered concurrently herewith will be vacated as to all claimants, and the Court will make such further orders as the justice of the cause may require; and

IT IS FURTHER ORDERED that a Notice shall be issued by the Clerk of this Court

to all persons, firms, entities or corporations, having any claim or suit against the Petitioner or the Vessel with respect to which the Complaint seeks exoneration from or limitation of liability, admonishing them to file their respective claims with the Clerk of this Court, in writing, and to deliver or mail to the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA, FRIEDMAN & MERCANTE LLP, 630 Third Avenue, 3rd Floor, New York, New York 10017, a copy thereof, ON OR BEFORE THE 27th DAY OF January, 2023, or be defaulted; and that if any claimant desires to contest either the right to exoneration from or the right to limitation of liability, such claimant shall file an Answer to the Complaint on or before the aforesaid date, unless the claim has included an Answer to the Complaint, as required by Supplemental Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, and deliver or mail a copy to the attorneys for the Petitioner, or be defaulted.

IT IS FURTHER ORDERED that the aforesaid Notice shall be published in a newspaper with a general circulation, once a week for four (4) weeks before the return date of said Notice, as provided by the aforesaid Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, and copies of said Notice shall be mailed by Petitioner in accordance with this Rule to every person known to have any claim against the Vessel, or Petitioner, or to their attorneys; and

IT IS FURTHER ORDERED that the further prosecution of any and all actions, suits and proceedings already commenced and the commencement or prosecution hereafter of any and all suits, actions, or proceedings of any nature and description whatsoever in any Court of any jurisdiction, or otherwise, against the Petitioner, insurers, and/or the Vessel, and the taking of any steps, entry of any order or judgment and the making or continuing of any motion in and/or

concerning such actions, suits or proceedings except in this action, with respect to the aforesaid incident, be and they hereby are restrained, stayed and enjoined until the hearing and determination of this action, and all warrants of arrest of the Vessel and/or attachments issued or sought in such other suits, actions or legal proceedings be and the same are hereby dissolved and further warrants of arrest of the Vessel and/or attachments are hereby prohibited; and

IT IS FURTHER ORDERED that service of this Order as a Restraining Order be made through the Post Office by mailing a conformed copy hereof to the person or persons to be restrained, or to their respective attorneys.

The Clerk of Court is respectfully directed to issue the attached Notice.

SO ORDERED.

Dated: November 18, 2022
White Plains, New York

A handwritten signature in blue ink, appearing to read 'Nelson S. Román', is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE COMPLAINT,

-of-

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NOTICE

PLEASE TAKE NOTICE that Petitioner CHERYL PIZAPPI as owner of M/V RAGAZZA GO-VELOCE, a 1999, 33-foot Wellcraft Scarab, pursuant to 46 U.S.C. §§ 30501 et seq., brings this action involving admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, concerning any claims for loss, damage, and/or injury, arising or resulting in connection with an incident which occurred on July 4, 2021, while Petitioner's Vessel was upon the navigable waters of the United States, as more fully described in the Complaint; and

PLEASE TAKE FURTHER NOTICE that all persons, firms, entities or corporations, having any claim or suit against the Petitioner or the Vessel arising or resulting from the incident must file a claim as provided in Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, with the Clerk of the Court, at the United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, NY 10601, and must deliver or mail to the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA, FRIEDMAN & MERCANTE LLP, 630 Third Avenue, 3rd

Floor, New York, New York 10017, a copy ON OR BEFORE THE 27th DAY OF January, 2022 or be defaulted. Personal attendance is not required. Further, any claimant desiring to contest Petitioner's right either to exoneration from or limitation of liability shall file an Answer to the Complaint on or before the aforesaid date as required by Supplemental Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure and deliver or mail a copy to the attorneys for the Petitioner or be defaulted.

Dated:

White Plains, New York

CLERK OF COURT